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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,163	03/31/2004	Zhenlin Liu	A8698	4479

23373 7590 04/06/2007  
SUGHRUE MION, PLLC  
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SUITE 800  
WASHINGTON, DC 20037

EXAMINER
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SAYADIAN, HRAYR

ART UNIT	PAPER NUMBER
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2828

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	04/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

## Application No.

10/813,163

## Applicant(s)

LIU ET AL.

## Examiner

Hrayr A. Sayadian

## Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 1, 5, 6, 10, 11, 17-22 and 25-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 2-4, 7-9, 12-16, 23, 24, 33-36 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Restriction Requirement**

1. This application and pending claims 1-36 are subject to an election requirement between an embodiment directed to FIG. 1 and one directed to FIG. 11. Applicants elected Species B without traverse. The election requirement was made final in the last office action.
2. Claims 2-4, 7-9, 12-16, 23, 24, and 33-36, directed to the elected species, are subjected to a restriction requirement as follows:
  - I. Claims 2-4, 7-9, and 12-15 are drawn to details of fiber module integration of the system, classified in class 372, subclass 6.
  - II. Claims 16, 23, 24, 11-14, and 33-36 are drawn to details of the AOM modulation/filtering, classified in class 372, subclass 9+.

These inventions are related as subcombinations possibly usable together. See, for example, M.P.E.P. §806.05(d).

3. For a restriction requirement to be proper, Examiner must show: (1) the inventions are distinct, and (2) a serious burden on Examiner if restriction is not required. See, for example, M.P.E.P. § 808, stating that a proper restriction requirement must satisfy both prongs.

In the case of subcombinations usable together, the inventions are distinct if they do not overlap in scope, are not obvious variants, and if it is shown that at least one subcombination is separately usable. See, for example, M.P.E.P. §806.05(d).

The above-identified inventions are distinct from each other because of the following reasons:

In the instant case, the subcombinations of inventions I and II do not overlap and are non-obvious over each other because they are directed to features classified in different subclasses. They also are separately usable, each does not require the limitations of the other.

In the instant case, moreover, examining the inventions together is a serious burden on Examiner because, as shown by their different classifications, the inventions have acquired a

separate status in the art. Additionally, since the inventions are differently classified, examining the inventions is a serious burden because examining them requires searching different fields. See, for example, M.P.E.P. § 808.02, describing how "serious burden" on Examiner is established.

Accordingly, restricting the claims directed to inventions I and II.

4. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR § 1.48(b) and by the fee required under 37 CFR § 1.17(i).

#### CONCLUSION

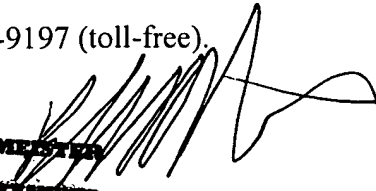
5. A shortened statutory period for reply to this Office Action is set to expire ONE MONTH from the mailing date of this Office Action. Applicants are reminded of the extension of time policy as set forth in 37 CFR § 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hrayr A. Sayadian whose telephone number is (571) 272-7779. Examiner Sayadian can normally be reached Monday through Friday, 7:30 am – 4:00 pm.

If attempts to reach Examiner Sayadian by telephone are unsuccessful, his supervisor, Minsun O. Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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